IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 43 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

HARSH FAMILY TRUST

Appearance:

MR MIHIR JOSHI FOR MR MANISH R BHATT for Petitioner

MR HM TALATI for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 31/08/2000

ORAL JUDGEMENT (Per D.M. DHARMADHIKARI, C.J.)

1. Learned counsel appearing for the Department points out that by order dated 9-2-1999 in Income-Tax Refernece No. 212 of 1984 concerning the same assessee for earlier assessment year, the following two questions were answered against the revenue and in favour of the assessee:-

"1. Whether, the Tribunal has not erred in law and on facts in holding that the assessee is a specific trust and that its income is exempt?

2. Whether, on the facts and in the circumstances of the case, the finding of the Tribunal, that the assessee trust is a specific trust and not discretionary one liable to pay tax at the rate of 65% as held by the ITO is correct in law and sustainable from the material on record?"

2. We, therefore, answer the two questions in favour of the assessee and against the revenue. The reference shall accordingly stand disposed of. A copy of the order passed in Income Tax Reference No. 212 of 1984 decided on 9-2-1999 is taken on record.

There shall be no order as to costs.

(D.M. DHARMADHIKARI, C.J.)

(A.R. DAVE, J)

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